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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND COMMERCE CORPORATION

Introduced By: Representative Kenneth J. Mendonca

Date Introduced: May 10, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-64-8 of the General Laws in Chapter 42-64 entitled "Rhode  
2 Island Commerce Corporation" is hereby amended to read as follows:

3 **42-64-8. Directors, officers, and employees.**

4 (a) The powers of the Rhode Island commerce corporation shall be vested in a board of  
5 directors consisting of ~~thirteen (13)~~ fifteen (15) members.

6 (1) The governor shall serve as a member of the board and as chairperson, ex-officio,  
7 who shall vote only in the event of a tie.

8 (2) In addition to the governor, the membership of the board shall consist of ~~twelve (12)~~  
9 fourteen (14) public members to be appointed by the governor.

10 (3) Each gubernatorial appointee shall be subject to the advice and consent of the senate  
11 and no one shall be eligible for appointment unless he or she is a resident of this state. The  
12 membership of the board shall reflect the geographic diversity of the state. Four (4) of the public  
13 members shall be owners or principals of small businesses doing business in this state which are  
14 independently owned and operated and each of which employs one hundred (100) or fewer  
15 persons. Two (2) of the public members shall be employed as senior managers in companies  
16 having the majority of their business in the defense industry and having facilities located in the  
17 state of Rhode Island. One other of the public members shall be a representative of organized  
18 labor. One other of the public members shall be a representative of higher education. One other of

1 the public members shall be a representative from the governor's work force board. One other of  
2 the public members shall be a representative of a minority business. One other of the public  
3 members shall be appointed on an interim basis by the governor when a project plan of the  
4 corporation situated on federal land is disapproved by the governing body of a municipality in  
5 accordance with § 42-64-13(a)(4). The member shall be the mayor of the municipality within  
6 whose borders all or a majority of the project plan is to be carried out, or in a municipality, which  
7 has no mayor, the member shall be the president of the town or city council. The appointed  
8 interim member shall have all the powers of other members of the board only in its deliberations  
9 and action on the disapproval of the project plan situated on federal land and within the borders of  
10 his or her municipality. Upon final action by the board pursuant to § 42-64-13(a)(5), the interim  
11 member's term of appointment shall automatically terminate.

12 (4) It shall be the responsibility of the corporation to conduct a training course for newly  
13 appointed and qualified members and new designees of ex-officio members within six (6) months  
14 of their qualification or designation. The course shall be developed by the executive director of  
15 the corporation or his or her designee, be approved by the board, and conducted by the executive  
16 director or his or her designee. The board may approve the use of any board or staff members or  
17 other individuals to assist with training. The training course shall include instruction in the  
18 following areas: the provisions of the entirety of chapter 64 of this title and of chapters 46 of this  
19 title, 14 of title 36, and 2 of title 38 of the Rhode Island general laws; and the board's rules and  
20 regulations. The director of the department of administration shall, within ninety (90) days of July  
21 15, 2005, prepare and disseminate materials relating to the provisions of chapters 46 of this title,  
22 14 of title 36, and 2 of title 38.

23 (5) Members of the board shall be removable by the governor, pursuant to the provisions  
24 of § 36-1-7 and for cause only, and removal solely for partisan or personal reasons unrelated to  
25 capacity or fitness for the office shall be unlawful.

26 (6) The terms for the members of the board of directors were established by the  
27 appointment of twelve (12) directors in 2010 with the directors' initial terms expiring as follows:  
28 three (3) members shall have terms expiring on February 1, 2011; three (3) members shall have  
29 terms expiring on February 1, 2012; three (3) members shall have terms expiring on February 1,  
30 2013; and three (3) members shall have terms expiring on February 1, 2014. Beginning in 2011  
31 and annually thereafter, during the month of January, the governor shall appoint a member or  
32 members to succeed the member or members whose terms will then next expire to serve for a  
33 term of four (4) years commencing on the first day of February and then next following, and  
34 thereafter until the successors are appointed and qualified. Beginning in 2011 and annually

1 thereafter the governor shall appoint owners or principals of small businesses doing business in  
2 this state that are independently owned and operated, and that employ one hundred (100) or fewer  
3 persons. Beginning in 2017 and annually thereafter the governor shall appoint two (2) public  
4 members employed as senior managers in companies having the majority of their business in the  
5 defense industry and having facilities located in the state of Rhode Island. The members of the  
6 board shall be eligible to succeed themselves, but only upon reappointment and with senate  
7 advice and consent.

8 (7) In the event of a vacancy occurring in the office of a member by death, resignation or  
9 otherwise, that vacancy shall be filled in the same manner as an original appointment, but only for  
10 the remainder of the term of the former member.

11 (b) The directors shall receive no compensation for the performance of their duties under  
12 this chapter, but each director shall be reimbursed for his or her reasonable expenses incurred in  
13 carrying out those duties. A director may engage in private employment, or in a profession or  
14 business.

15 (c) The chairperson shall designate a vice chairperson from among the members of the  
16 board who shall serve at the pleasure of the chairperson. A majority of directors holding office  
17 shall constitute a quorum, and, except as otherwise provided in § 42-64-13, any action to be taken  
18 by the corporation under the provisions of this chapter may be authorized by resolution approved  
19 by a majority of the directors present and entitled to vote at any regular or special meeting at  
20 which a quorum is present. A vacancy in the membership of the board of directors shall not  
21 impair the right of a quorum to exercise all of the rights and perform all of the duties of the  
22 corporation.

23 (d) The chief executive officer of the corporation shall be executive director of the  
24 corporation until such time that the secretary of commerce is appointed. Upon the appointment of  
25 a secretary of commerce, the secretary of commerce shall be the commerce corporation's chief  
26 executive officer and responsible for the management of the corporation. There shall be a chief  
27 operating officer (COO) of the corporation and he/she shall be appointed by the secretary of  
28 commerce. The COO shall be the chief administrative officer of the corporation and responsible  
29 for the day-to-day management of the corporation. The COO shall be a professional in the area of  
30 economic development; management of economic development corporations; and shall hold the  
31 requisite experience and education as established by the secretary and board.

32 (e) The board of directors shall appoint a secretary and such additional officers and staff  
33 members as they shall deem appropriate and shall determine the amount of reasonable  
34 compensation, if any, each shall receive. The board of directors may vest in the executive

1 director, or the director's subordinates, and, upon the appointment of a secretary of commerce, the  
2 chief operating officer or the chief operating officer's subordinates, the authority to appoint  
3 additional staff members and to determine the amount of compensation each individual shall  
4 receive.

5 (f) No full-time employee shall, during the period of his or her employment by the  
6 corporation, engage in any other private employment, profession or business, except with the  
7 approval of the board of directors.

8 (g) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict  
9 of interest for a director, officer, or employee of any financial institution, investment banking  
10 firm, brokerage firm, commercial bank, trust company, building-loan association, architecture  
11 firm, insurance company, or any other firm, person, or corporation to serve as a director of the  
12 corporation, nor shall any contract or transaction between the corporation and a financial  
13 institution, investment banking firm, brokerage firm, commercial bank, trust company, building-  
14 loan association, architecture firm, insurance company, or other firm, person, or corporation be  
15 void or voidable by reason of that service as director of the corporation. If any director, officer, or  
16 employee of the corporation shall be interested either directly or indirectly, or shall be a director,  
17 officer, or employee of or have an ownership interest (other than as the owner of less than one  
18 percent (1%) of the shares of a publicly-held corporation) in any firm or corporation interested  
19 directly or indirectly in any contract with the corporation, that interest shall be disclosed to the  
20 corporation and set forth in the minutes of the corporation, and the director, officer, or employee  
21 having that ownership interest shall not participate on behalf of the corporation in the  
22 authorization of that contract. Interested directors may be counted in determining the presence of  
23 a quorum at a meeting of the board of directors of the corporation that authorizes the contract or  
24 transaction.

25 (h) Any action taken by the corporation under the provisions of this chapter may be  
26 authorized by vote at any regular or special meeting and each vote shall take effect immediately.  
27 The corporation shall be subject to the provisions of chapter 46 of title 42 ("Open Meetings") and  
28 chapter 2 of title 38 ("Access to Public Records").

29 (i) The board of directors may designate from among its members an executive  
30 committee and one or more other committees each of which, to the extent authorized by the board  
31 of directors, shall have and may exercise all of the authority of the board of directors, but no  
32 executive committee shall have the authority of the board of directors in reference to the  
33 disposition of all or substantially all of the property and assets of the corporation, amending the  
34 by-laws of the corporation; exercising the condemnation power conferred upon the corporation by

1 § 42-64-9; or taking actions described or referred to in § 42-64-13(a).

2 (j) The board shall create a capital finance subcommittee that shall be responsible for  
3 drafting for board approval a set of guidelines, principals, and processes for all loans, loan  
4 guarantees, and financing programs. The guidelines shall contain a set of metrics that the board  
5 can use to determine the effectiveness of each program and to inform the governor and the  
6 general assembly of the outcome of the various programs and to determine if there is need for  
7 modification, continuance, or termination. The guidelines shall also contain measures to annually  
8 review the outstanding loan and loan guarantee programs to determine if the loans and loan  
9 guarantees were granted in accordance with the board's guidelines and principals and to  
10 determine the risk factors normally used by lending institutions to determine risk and potential for  
11 repayment. The board shall also implement the provisions of §§ 42-64-36 and 42-64-37.

12 (k) Any action required by this chapter to be taken at a meeting of the board of directors,  
13 or any action that may be taken at a meeting of the board of directors, or committee of the board  
14 of directors, may be taken without a meeting if a consent in writing, setting forth the action to be  
15 taken, shall be signed before or after that action by all of the directors, or all of the members of  
16 the committee, as the case may be.

17 (l) Employees of the corporation shall not, by reason of their employment, be deemed to  
18 be employees of the state for any purpose, any other provision of the general laws to the contrary  
19 notwithstanding, including, without limiting the generality of the foregoing, chapters 29, 39, and  
20 42 of title 28 and chapters 4, 8, 9, and 10 of title 36.

21 (m) The board shall create a set of metrics and reporting requirements to disclose the  
22 programs and services offered or provided by the corporation and the effectiveness of each  
23 offering. The board shall develop an annual report containing these metrics and shall submit the  
24 report to the governor and the general assembly. The annual report shall also contain  
25 recommendations for improving the business climate within the state and other actions the board  
26 deems necessary to improve its effectiveness.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND COMMERCE  
CORPORATION

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1           This act would add to the Rhode Island commerce corporation two (2) public members  
2 appointed by the governor, employed as senior managers in companies having the majority of  
3 their business in the defense industry and having facilities located in this state.

4           This act would take effect upon passage.

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